

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

JOSEPH ANTONIO WEAVER,

Plaintiff,

v.

RONALD VAUGHN, et al.,

Defendants.

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No. 4:15CV400 TCM

**MEMORANDUM AND ORDER**

Plaintiff, a prisoner seeking leave to proceed in forma pauperis, brings this action under 42 U.S.C. § 1983. The Court will not assess a partial initial filing fee, because plaintiff has a negative balance and no deposits. See 28 U.S.C. § 1915(b)(4).

Under 28 U.S.C. § 1915(e), the Court is required to dismiss a complaint filed in forma pauperis if it is frivolous, malicious, or fails to state a claim upon which relief can be granted. To state a claim for relief under § 1983, a complaint must plead more than “legal conclusions” and “[t]hreadbare recitals of the elements of a cause of action [that are] supported by mere conclusory statements.” Ashcroft v. Iqbal, 129 S. Ct. 1937, 1949 (2009). A plaintiff must demonstrate a plausible claim for relief, which is more than a “mere possibility of misconduct.”

Plaintiff sues two police officers as well as a number of judges and prosecutors. Plaintiff alleges that the police officer defendants violated his rights under the Second Amendment by taking his firearms, leaving him defenseless “against potential attack from foreign enemy aliens.” Plaintiff says that the prosecutors and judges violated his rights by prosecuting him for and convicting him of a crime in state court. Missouri v. Weaver, No. 1022-CR03084 (St. Louis City) (plaintiff pled guilty to possession of marijuana; court revoked probation and ordered

previous suspended imposition of sentence revoked; plaintiff sentenced to fifteen years' imprisonment.). Plaintiff sues United States District Judge John A. Ross of this Court for presiding over his federal case in which he pleaded guilty to being a felon in possession of a firearm. United States v. Weaver, 4:13CR318 JAR (E.D. Mo.).

The complaint is both frivolous and malicious. It is frivolous because, as a convicted felon, plaintiff did not have a constitutional right to possess a firearm. Moreover, judges and prosecutors are absolutely immune from suit. Penn v. United States, 335 F.3d 786, 789 (8th Cir. 2003); Brodnicki v. City of Omaha, 75 F.3d 1261, 1266 (8th Cir. 1996). The complaint is malicious because plaintiff is attempting to harass all of the actors involved in carrying out his conviction rather than pursuing an actual legal right.

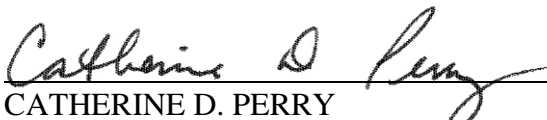
Accordingly,

**IT IS HEREBY ORDERED** that plaintiff's motion to proceed in forma pauperis [ECF No. 2] is **GRANTED**.

**IT IS FURTHER ORDERED** that this action is **DISMISSED** pursuant to 28 U.S.C. § 1915(e)(2)(B).

An Order of Dismissal will accompany this Memorandum and Order.

Dated this 1<sup>st</sup> day of April, 2015.

  
CATHERINE D. PERRY  
UNITED STATES DISTRICT JUDGE